

REMARKS

Claims 1-22 remain pending. By the foregoing amendment, claims 1 and 12 have been amended to better define the invention by pointing out that the smokeless tobacco product comprises a solid bit of powdered tobacco. Dependent claims 4 and 15 have been amended to reflect the changes made to independent claims 1 and 12, respectively. Support for the amendments is found throughout the specification, including original claims 4 and 15. No new matter is added.

Applicant notes with appreciation that claims 4, 5, 11, 15, 16, and 22 have been indicated to contain allowable subject matter.

Claims 12-14 and 17-21 stand rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent 6,834,654. Claims 1-3 and 6-11 stand rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent 6,834,654 in view of Sensabaugh, Jr. et al., U.S. Patent 4,528,993 ("Sensabaugh"). A terminal disclaimer over U.S. Patent 6,834,654 is submitted concurrently herewith, which is believed to obviate the double patenting rejections.

Claims 1-3, 9, 10, 12-14, and 20-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Atchley et al., U.S. Published Application 2003/0094182 ("Atchley") in view of Sensabaugh. Claims 6-8 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Atchley in view of Sensabaugh, and further in view of Williams WO 00/15056 ("Williams"). Each of these rejections is respectfully traversed insofar as it may be applied to claims 1-3, 6-9, 10, 12-14, and 17-21 as amended.

Atchley and Sensabaugh are cited as describing snuff products containing powdered tobacco and flavorants, such as wintergreen. The Office Action contends that mint and menthol are common flavorants used in tobacco, and that it would have been obvious to have prepared a powdered tobacco product having wintergreen, menthol, and peppermint and/or spearmint in the claimed amounts.

In an effort to advance prosecution, independent claims 1 and 12 have been amended to better define the invention by pointing out that the smokeless tobacco product comprises a solid bit of powdered tobacco. As discussed above, Atchley and Sensabaugh describe snuff rather than a solid bit of powdered tobacco. Neither Atchley nor Sensabaugh, whether taken alone or in combination, describes or suggests a solid bit of powdered tobacco as claimed in amended claims 1 and 12. Dependent claims 2, 3, 9, 10, 13, 14, 20, and 21 are allowable over these references for at least the same reasons as are applicable to independent claims 1 and 12.

Williams is cited as describing tobacco products having very low levels of tobacco-specific nitrosamines. Williams does not describe a smokeless tobacco product comprising a solid bit of powdered tobacco, and thus fails to remedy the deficiencies of the primary references as discussed above. Dependent claims 6-8 and 17-19 are allowable over the prior art for at least the same reasons as are applicable to independent claims 1 and 12.

None of the prior art documents, taken alone or in any combination, describes or suggests a solid bit of powdered tobacco having all of the features set forth in independent claims 1 and 12. Reconsideration and withdrawal of each of the prior art rejections are respectfully requested.

The Examiner is invited to telephone the undersigned at the number listed below if doing so would be helpful to resolve any outstanding issues.

Respectfully submitted,

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